

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Amendment of Section 2.106 of the
Commission's Rules to Allocate
Spectrum at 2 GHz for Use by the
Mobile-Satellite Service

ET Docket No. 95-18

REPLY OF SBC COMMUNICATIONS, INC

I. INTRODUCTION

SBC Communications, Inc., on behalf of its affiliates, ("SBC")¹ hereby
replies to selected issues raised in the comments filed in the above-captioned proceeding.

II. THE COMMISSION SHOULD CONTINUE THE RELOCATION AND COST
SHARING PRINCIPLES IT ADOPTED WITH RESPECT TO PCS.

A. The Depreciated Basis of Equipment Should Not Be Used As Measure for
Compensation.

Boeing Company recommends that incumbents should only be able to
recover the depreciated basis of equipment as of the time of the actual relocation.² The
Commission carefully considered these issues in the PCS proceeding. With respect to
taking into account the depreciated cost of equipment, the Commission found that

¹ SBC Communications Inc. ("SBC") is the parent/holding company of various
subsidiaries conducting business under federal licenses. These subsidiaries include
Southwestern Bell Telephone Company ("SWBT"), Pacific Bell, Nevada Bell, Southern
New England Telephone Company and various wireless carriers including Southwestern
Bell Mobile Systems, Inc. ("SBMS"), Southwestern Bell Wireless Inc. ("SWBW") and
Pacific Bell Mobile Services ("PBMS"). The abbreviation "SBC" shall be used herein to
include each of these subsidiaries as appropriate in the context.

² Boeing Company p. 2.

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“compensation for the depreciated value of old equipment would not enable them to construct a comparable replacement system without imposing costs on the incumbent, which would be inconsistent with our relocation rules.”³ Boeing offers no reason why this method of compensation should be viewed as a fair method of compensation now when less than three years ago the Commission rejected this approach. There are no changed circumstances that warrant a departure from the previous conclusion.

B. There is no Need to Revisit the Ten Year Relocation Compensation Period.

Several parties have advocated shortening the ten year period in which incumbents are eligible for reimbursement of their costs to relocate.⁴ The Commission has already concluded that this period provides a reasonable balance between the interests of the new entrants and incumbents.⁵ It would be inequitable to give some FS licensees a shorter period than others. In addition, as SBC pointed out in its comments, the six month notice period that follows the ten year period, needs to be extended in those situations in which state or federal governmental approvals are necessary or in which international coordination is involved.⁶

C. The Commission Should Retain the Rule that Allows Incumbents to Participate in Cost Sharing.

In the PCS proceeding the Commission concluded that microwave incumbents that relocate themselves should be allowed to obtain reimbursement rights and collect

³ Amendment to the Commission’s Rules Regarding a Plan for Sharing the Costs of Microwave Relocation, WT Docket No. 95-157, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 8825, para. 34, (1996) (“Relocation Order”).

⁴ Globstar, L.P., pp. 3-4, ICO USA Service Group, p. 39.

⁵ Relocation Order, para. 65.

⁶ SBC, pp. 4-6.

reimbursement under the Commission's Cost Sharing Plan.⁷ The Commission chose to include the incumbents because it believed that incumbent participation would accelerate the relocation process.⁸ The same reasoning holds true for FS licensees in the band segments at issue in this proceeding. Therefore, FS licensees that self-relocate should be eligible for reimbursement from subsequent new entrants who benefit from the clearing of point-to-point links.

III. FREEZING OF ALL NEW FS LICENSES IS NOT NECESSARY.

ICO states the Commission should freeze applications for all incumbent licenses and modifications in the 2 GHz Band as of the date of the release of the Commission's Memorandum Opinion and Order.⁹ There is no need to do so since the Commission's rules already state that after April 25, 1996, all major modifications and extensions to existing FS systems will be authorized on a secondary basis to ET systems.¹⁰ All other modifications will also be secondary unless the incumbent affirmatively justifies primary status and establishes that the modification would not add to the relocation costs of the ET licensees.¹¹ If a licensee is willing to be licensed on a secondary basis, it poses no financial harm to the new entrant. Thus, there is no reason to stop processing such applications entirely. Further, a freeze would not allow filings to correct the Commission's data on an existing authorization. Such corrections, for example the provision of new station coordinates resulting from use of modern survey

⁷ Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation, WT Docket No. 95-157, Second Report and Order, 12 FCC Rcd 2705, para. 25 (1997).

⁸ Id.

⁹ ICO USA, pp. 41-42.

¹⁰ 47 CFR §101.81.

¹¹ Id.

techniques such as differential GPS, generally improve the prospects for sharing of spectrum by making the most accurate data available to all interested parties.


IV. CONCLUSION.

The Commission created the principles surrounding the relocation and compensation of FS licensees after careful evaluation of competing interests. There is no reason to depart from these established principles and favor one set of new entrants over another set to the detriment of the incumbents. SBC respectfully requests the Commission carry over the relocation and compensation principles adopted in the PCS proceedings to relocation of FS licensees in this proceeding.

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Respectfully submitted,

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